



FACT SHEET

ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM 2008 Construction General Permit (AZG2008-01)

INTRODUCTION

This Fact Sheet relates to the proposed 2008 AZPDES General Permit for Stormwater Discharges from Construction Activities. Hereinafter, the terms "permit" or "construction general permit" or "CGP" will be used. This general permit is applicable to discharges in Arizona except for those on Indian Country, as those tribal areas continue to be the jurisdiction of EPA Region 9.

This fact sheet is written in an informal style that does not reflect verbatim the actual language used in the permit. It is intended to help the regulated community and members of the public understand the intent and basis of the actual permit language. If any discrepancy exists between this summary and the actual CGP language, the permittee must comply with the CGP as written.

Note also that the permit references various federal regulations. These regulations are incorporated by reference into the state AZPDES rules in the Arizona Administrative Code (A.A.C.) R18-9-A905. As an aid to reviewers, however, the permit cites the federal regulations where specific regulatory language can be found.

This permit replaces the previous AZPDES Construction General Permit (AZG2003-001) and has a five year term, thus it will expire on the anniversary of the date the permit is signed in 2013. Pursuant to A.A.C. R18-9-C905 the Director may modify and reissue and revoke this permit before it expires if certain conditions, presented in 40 CFR 122.62(a) or (b), are met.

BACKGROUND

Section 405 of the Water Quality Act of 1987 added section 402(p) of the Clean Water Act (CWA) which required the U.S. EPA (EPA) to develop a phased approach to regulate stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) program. Section 402(p) of the CWA states that stormwater discharges associated with construction activities to waters of the United States must be authorized by an NPDES permit.

Phase I: EPA published final regulations on the first phase of the stormwater program on November 16, 1990. These rules established permit application requirements for "stormwater discharges associated with industrial activity." EPA defined the term "stormwater discharge associated with industrial activity" in a comprehensive manner to cover a wide variety of facilities. Construction activities (including clearing, grading and excavation activities) that disturb at least five acres of land (including smaller areas that are part of a larger common plan of development or sale) are defined as an "industrial activity" per 40 CFR 122.26(b)(14)(x).

EPA issued the first round of the Phase I construction general permit in September 1992. The Phase I permit was commonly referred to as the Baseline Construction General Permit and was administered by EPA as the NPDES Permitting Authority in Arizona.

Phase II: The regulation titled "National Pollutant Discharge Elimination System - Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges" (64 FR 68722) was published by EPA on December 8, 1999. This regulation, which is considered Phase II of the stormwater program, expanded the existing NPDES stormwater program to address discharges from small construction activities, defined in 40 CFR 122.26(b)(15)(i) as construction activities including clearing, grading, and excavating that

result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of land area if it is part of a larger common plan of development or sale.

The Stormwater Phase II Rule automatically designates these small sites; however, this rule allows for the exclusion of certain sources from the program based on a demonstration of the lack of impact on water quality, as well as the inclusion of others based on a higher likelihood of localized adverse impact on water quality. Exclusion from the program is available through a waiver to operators of small construction activity who qualify,

The second-round construction general permit, issued February 17, 1998, was administered by EPA as the NPDES Permitting Authority in Arizona.

Delegation: On December 5, 2002, ADEQ received authorization to implement the AZPDES program in Arizona. In Arizona except for Indian Country, the NPDES program is administered as the Arizona Pollutant Discharge Elimination System (AZPDES) program.

The AZPDES Construction General Permit (AZG2003-001) was issued for a five-year term by ADEQ in February 2003 and expires in February 2008. If a new permit is not re-issued by that date, those who have coverage under the 2003 permit will have an administrative extension to continue operation under that permit. However, operators of new construction sites would not be able to obtain coverage for stormwater discharges under a general permit until a new permit is issued. Therefore, ADEQ intends to issue this permit before expiration of the 2003 permit to ensure coverage options are available.

CONSTRUCTION AND STORMWATER RUNOFF

Stormwater discharges generated during construction activities can cause physical, chemical, and biological water quality impacts and compromise the integrity of surface waters. A primary concern at most construction sites is sediment resulting from erosion of disturbed land. Water quality impairments may result because a number of pollutants such as nutrients (particularly phosphorus), metals, and organic compounds can absorb onto sediment particles and leave the site in storm events

Although streams and rivers naturally carry sediment loads, erosion from construction sites and runoff from developed areas can elevate these loads to levels well above those in undisturbed watersheds. It is generally acknowledged that erosion rates from construction sites are much greater than from almost any other land use. Siltation is the largest cause of impaired water quality in rivers and the third largest cause of impaired water quality in lakes (EPA, 1998). Excess sediment can cause a number of problems for waterbodies, beyond the potential for filling lakes, clogging stream channels and the associated costs for dredging. Sediment is associated with increased turbidity and reduced light penetration in the water column, as well as more long-term effects associated with habitat destruction and increased difficulty in filtering drinking water.

The basic principle of the CGP is that construction project operators must identify areas and activities that may contribute pollutants to stormwater and must implement Best Management Practices (BMPs) to minimize those pollutants. The degree of BMPs necessary will vary depending on the site and the situation. The primary pollutant from construction sites is sediment discharges from increased erosion. Adequate and effective erosion and sediment control BMPs must be used to prevent sediment discharges.

Other potential pollutants from construction sites include fuels, lubricating oils, construction materials, fertilizers, and pesticides. Construction sites can also generate other pollutants associated with on site wastes, such as sanitary wastes or concrete truck washout. Managing these materials properly is critical to ensure pollutants do not reach surface waters through storm water runoff.

To comply with this permit the operator is required to develop and implement a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP is the operator's document that characterizes the construction activity, identifies potential sources of pollutants, and describes how the site will be managed and monitored, and the BMPs that will be implemented to help ensure pollutants do not reach surface waters. The basic requirements of the SWPPP are provided in Part III of the permit. Operators are required to prepare a SWPPP that addresses all the requirements of this permit prior to applying for permit coverage.

PROPOSED PERMIT CHANGES

This permit is different from the 2003 permit, both in format and level of detail. The 2003 permit is very general in describing permit conditions. As a result, ADEQ receives routine questions from operators about certain terms of the permit. To address this, the 2008 draft permit is written with a goal to better clarify what the permit requires in areas considered unclear.

The list below summarizes areas where significant changes are proposed. Most of these are further discussed in more detail in the following portions of this Fact Sheet.

- Removed vehicle washing and concrete washout as allowable non-stormwater discharges as inconsistent with other regulatory requirements.
- Removed TMDL waiver because not applicable. ADEQ never used the TMDL waiver provision that was included in the previous permit. Further, if specific TMDL issues are of concern, an individual permit is considered a more appropriate mechanism for permit coverage.
- Requires use of the Smart NOI system for the erosivity waiver. This permit requires the erosivity calculation to be done via the Smart NOI system to promote consistency and accuracy due to the complex calculations involved.
- Permit clarifies an operator is only authorized to discharge after ADEQ issues an Authorization letter; removes 'default' authorization timelines.
- Clarifies that authorization to discharge will not be issued until a signed NOI is at ADEQ. ADEQ encourages e-signature filing on the Smart NOI system to accelerate the authorization process.
- Clarifies distinction between erosion control BMPs and sediment control BMPs. Both are required to be implemented.
- Clarifies that inlet protection is a required BMP.
- Provides a sample inspection form in Appendix A for sites.
- Removed reduced inspection frequency for sites in seasonal dry period and details requirements for inspection during the monsoon season. The previous condition has proved problematic as Arizona's seasonal dry periods are difficult to define, vary across the state, and rainfall can occur anytime. It also can be quite windy during 'dry' times leading to damaged or destroyed BMPs.
- Specifies timeframes for BMP maintenance to be completed to clarify previous language.
- Requires removal of BMPs before filing NOT BMPs remaining on-site after final stabilization can actually promote erosion if not removed (i.e., hay bales left in a ditch can cause undercutting or erosion around them).
- Includes details on monitoring requirements for sites near impaired/unique waters in Part V.
- Clarifies there should be no discharges of sediment from a construction site during dry weather; as such discharges are inconsistent with this permit.
- Provides exemption for stormwater discharges of sediment from oil and gas-related construction activities consistent with federal requirements.¹
- Provides that interim or temporary stabilization of areas within 50' of a unique or impaired water be initiated within 7 days of last disturbance.

SUMMARY OF PERMIT CONDITIONS

The AZPDES program extends to discharges that have a potential to impact the waters of the U.S. (including dry ephemeral streams) either directly, or through discharge to an MS4 system. (An MS4 system is a municipal separate storm sewer system which may include streets, ditches and conveyances). If there is any possibility for discharge in a storm event of any size, permit coverage is required.

¹ The Energy Policy Act of 2005 (which became law on August 8, 2005), further defined the term "oil and gas exploration, production, processing, or treatment, or transmission facilities" to mean "all field activities or operations associated with exploration, production, processing, or treatment, operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment whether or not such field activities or operations may be considered to be construction activities."

PART I. COVERAGE UNDER THIS GENERAL PERMIT

Part I.A. Permit Area

This general permit covers the state of Arizona, except for Indian Country. ADEQ does not have authority for discharges in Indian Country. Operators in these areas must pursue permitting through EPA Region 9 or other appropriate permitting authority.

Part I.B. Eligibility

ADEQ is issuing this construction general permit authorizing the discharge of stormwater associated with construction activity, subject to the conditions and limitations set forth in the permit.

Definition of Construction

Construction activity in this permit includes:

- Clearing, grading, excavating, stockpiling of fill material, or other similar activities resulting in one or more acres of land being disturbed..
- Clearing, grading, excavating, stockpiling of fill material, or other similar activities that will disturb less than one acre of land but the project is part of a larger common plan of development or sale and the entire project will ultimately disturb one or more acres
- Activities supporting the construction project such as construction materials or equipment storage or maintenance (e.g., fill piles or borrow areas).
- Other industrial activities directly related to the construction process (e.g., concrete or asphalt batch plants.)
- Construction activities on federal lands and federal projects.
- Construction projects that disturb less than one acre, or meet other potential exemptions in this permit, may be "designated" and required to obtain permit coverage based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to waters of the U.S.
- Clearing, grading, and excavation activities being conducted as part of exploration and construction phase of mineral mining operations if one or more acres of land is disturbed. [Note: Once exploration phase clearing, grading, and excavation activities are completed and no further mining activities will occur at the site, the operator must comply with the requirements for terminating the CGP (i.e. stabilize and re-vegetate the disturbed land, submit a NOT, etc.). If active mining operations will ensue, the operator must apply for coverage under the Multi Sector General Permit for stormwater discharges and be prepared to implement any new requirements prior to beginning the active mining phase (extraction through production of a salable product).]

The following activities do not require coverage under this permit:

- Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility and that disturbs less than five acres.
- Construction activities unrelated to earth disturbing activities such as interior remodeling, completion of interiors of structures, etc.
- Demolition of a structure if no new structure will be constructed.
- Routine earth disturbing activities that are part of the normal day-to-day operation of a completed facility (e.g., daily cover for landfills, maintenance of gravel roads or parking areas, landscape maintenance, etc.).
- Re-paving roads (if the sub-grade is undisturbed).
- Construction activities under a State or Federal reclamation program to return an abandoned facility property to an agricultural or open land use.
- Construction activity that disturbs less than one acre and is not part of a larger common plan of development that disturbs more than one acre.
- Geotechnical, environmental, and archeological explorations if those activities collectively disturb less than one acre.

Common Plan of Development

A "larger common plan of development or sale" is:

(1) A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one project plan. Examples include:

- a) Phased projects and projects with multiple filings or lots, even if the separate phases or filings/lots will be constructed under separate contract or by separate owners (e.g., a development where lots are sold to separate builders);
- b) A development plan that may be phased over multiple years, but is still under a consistent plan for long-term development; and
- c) Projects in a contiguous area that may be unrelated but still under the same contract, such as construction of a building extension and a new parking lot at the same facility.

For example, if a developer buys a 20-acre lot and builds roads, installs pipes, and runs electricity with the intention of constructing homes or other structures sometime in the future, this would be considered a larger common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than one acre by separate, independent builders, the construction activity would still be part of the common plan of development and subject to stormwater permitting requirements if the smaller plots were included on the original site plan. A larger common plan of development or sale also applies to other types of land development such as commercial shopping areas, and industrial parks.

(2) Where there is any documentation or announcement (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, etc.) that links the separate construction activities or project phases together under a common project plan.

If the project is part of a common plan of development or sale, the disturbed area of the entire plan shall be used in determining permit requirements.

General Permits

ADEQ develops and issues general permits to cover multiple facilities or sites within a specific category, industry or area. A general permit is written to include all facilities within a common geographic area that involve similar types of activities and discharge the same types of pollutants. This type of permit is a cost-effective and efficient option for ADEQ to permit a large number of similar facilities or sites and ensure consistency in permit conditions for similar facilities or sites. This approach also benefits the permittee by significantly shortening the time necessary to obtain permit coverage.

To apply for coverage under the Construction General Permit, the operator is required to develop a site-specific Stormwater Pollution Prevention Plan (SWPPP) describing how the permit conditions will be met and to submit a Notice of Intent (NOI).

When the general permit requirements do not accurately represent the activity at a facility or if ADEQ determines that the discharge is a significant contributor of pollutants, an individual permit is required so that permit conditions can be customized to the site. See A.A.C. R18-9-B901 for the requirements for an individual permit application and issuance or denial.

Part I.C Authorized Discharges

Part I.C.1. Allowable Stormwater Discharges

This section of the permit specifies the types of stormwater discharges allowed under this permit. This includes stormwater from construction site support activities (concrete batch plants, asphalt plants, etc.) that are dedicated to the project and managed with appropriate BMPs and in accordance with the permit.

Part I.C.2 Allowable Non-Stormwater Discharges

This permit conditionally allows certain non-stormwater discharges (listed in Part I.C.2) associated with construction activity, provided that they are not a significant source of pollutants and the non-stormwater discharge is managed per Part IV.E of the permit. The permit requires non-stormwater discharges to be eliminated whenever possible as the first and most effective BMP. However, when elimination is not feasible, these discharges must be controlled through the implementation of BMPs that will significantly reduce the discharge of pollutants. Only these allowable non-stormwater discharges are allowed to discharge from the site.

Additionally, non-stormwater discharges are not to be released off-site during dry weather if they have the potential to reach a unique or impaired waterbody. Such discharges are to be eliminated or managed under another permit. Discharge from these sites is acceptable during storm events when the discharge is mixed with stormwater from the site.

Any other non-stormwater discharges, such as concrete wash out or equipment wash water, are not authorized under this permit and must be prevented from entering a watercourse or flowing off the site (i.e., "discharged"). Construction activities, such as washing out a concrete truck chute, may be performed on the construction site however, "discharge" of the waste water is not allowed by this permit. Therefore, these types of wastes (unauthorized non-stormwater discharges) must be contained on site and prevented from entering a watercourse.

It is important to note the distinction between 'non-stormwater discharges' and 'potential pollutant sources'. Potential pollutant sources are, as their name implies, sources of pollutants. For instance, a potential pollutant source of oil would be traffic, maintenance and fueling activities, leaks and spills, etc. On the other hand, allowable non-stormwater discharges are waste waters or wash waters that may leave the site (provided BMPs are implemented), and flow to the street, a storm sewer system or directly enter a wash or water of the U.S. These discharges are not a result of storm event runoff, but they typically contain pollutants.

Operators are required to identify in the SWPPP all sources and locations of non-stormwater discharges and must identify and ensure the implementation of appropriate BMP measures for these discharges. The operator must also eliminate or reduce these discharges to the extent feasible. The lists of potential "non-stormwater discharges" associated with a construction project on the NOI and in the SWPPP must be consistent.

Fire Fighting

Although fire fighting discharges may contain significant pollutant concentrations, the frequency of occurrence is low and discharges from **emergency** fire fighting are allowed out of necessity. Discharges from any other fire fighting activities (e.g. training) must be managed by BMPs and eliminated or reduced to the extent feasible.

Reclaimed Water

ADEQ encourages the use of reclaimed (reuse) water, and this general permit and the reclaimed water rules (A.A.C 18-9-704(G)(3)) are consistent and do allow reclaimed water to be used for dust control and soil compaction. However, both this permit and the reclaimed water rules prohibit allowing runoff of reclaimed water or mixing with stormwater. As such, there should be no discharge from these activities.

Vehicle and Equipment Washing

Vehicle and equipment washing is not included on the list of allowable non-stormwater discharges. Discharge of vehicle and equipment washwater must be managed in accordance with the Aquifer Protection Program (APP) rules, and discharge to the ground is inconsistent with the APP general permit for these wastewaters.

Concrete Washout

Similarly, concrete washout is not an allowable non-stormwater discharge. Concrete washout must also be handled in a manner consistent with the APP rules. In November 2005, ADEQ adopted a new APP Type 1 general permit for concrete wash-out [A.A.C. R18-9-B301(L)] as follows:

The APP general permit allows the discharge of wastewater resulting from washing concrete from trucks, pumps, and ancillary equipment to an impoundment if the following conditions are met:

1. The person is authorized under the AZPDES CGP;
2. The SWPPP for the construction activity addresses the concrete washout activities;
3. The vegetation at the soil base of the impoundment is cleared, grubbed, and compacted to uniform density not less than 95 percent. If the impoundment is located above grade, the berms or dikes are compacted to a uniform density not less than 95 percent;
4. If groundwater is less than 20 feet below land surface, the impoundment is lined with a synthetic liner at least 30 mils thick;
5. The impoundment is located at least 50 feet from any storm drain inlet, open drainage facility, or watercourse and 100 feet from any water supply well;
6. The impoundment is designed and operated to maintain adequate freeboard to prevent overflow or discharge of wastewater;
7. The concrete washout wastewater from any wash pad is routed to the impoundment;
8. The impoundment receives only concrete washout wastewater;
9. The annual average daily flow of wastewater to the impoundment is less than 3000 gallons per day; and
10. The following closure requirements are met.
 - a. The facility is closed by removing and appropriately disposing of any liquids remaining in the impoundment,
 - b. The area is graded to prevent ponding of water, and
 - c. Closure activities are completed before filing a NOT for the AZPDES CGP.

De Minimus Permit

Discharges of wastewaters that are not named under Part I.C. must be covered under another AZPDES permit [such as an individual permit, or the AZPDES De Minimus General Permit. By definition, 'De Minimus' discharges contain relatively low levels of pollutants, are of limited flow and/or frequency, and of short term duration. The De Minimus General Permit (DGP) allows for the discharge of pollutants associated with potable and reclaimed water systems, subterranean dewatering, well development, aquifer testing, hydrostatic testing of specific pipelines, residential cooling water, charitable car washes, building and street washing, and dechlorinated swimming pool water. Authorization under the DGP requires the permittee to implement various BMPs, and in many cases to conduct discharge monitoring based on the type of discharge activity and the type of receiving water. More information on the DGP is available at:

<http://www.azdeq.gov/envIRON/water/permits/gen.html#demi>.

To clarify, some of these wastewaters addressed by the De Minimus permit are specifically allowed under Part I.C of the CGP. For these, an additional De-minimus permit is not required.

Other Non-Allowable Discharges

This permit does not authorize discharges of non-stormwater from line breaks; hydrostatic testing for used oil and gas lines; or for landscape irrigation (which may contain fertilizers, and pesticides and discharges are typically the result of overwatering.) These activities may be performed at the construction site, however these wastewaters may contain significant concentrations of pollutants and are not authorized under this permit to discharge from the site.

Part I.D Limitations of Coverage

Part I.D.1. Post Construction Discharges

This permit covers only the construction phase of the project. Once final stabilization is achieved and a Notice of Termination is filed, discharges are no longer covered under this permit. Sites requiring post-construction permitting must obtain coverage under an individual or alternative AZPDES permit.

Part I.D.2. Prohibition on Discharges Mixed With Non Stormwater

Stormwater discharges that are mixed with non-stormwater sources, other than those specifically identified in and managed in compliance with the permit are not authorized.

Non-stormwater discharges that are authorized under a different NPDES/AZPDES permit may be commingled with discharges authorized under this permit.

Part I.D.3. Discharges Covered by another AZPDES Permit

Stormwater discharges associated with construction activities which are covered under an individual permit or discharges required to be covered under an alternative general permit are not authorized by this permit.

Part I.D.4. Discharges Threatening Water Quality

This permit does not authorize discharges that will cause or contribution to non-attainment of water quality standards including narrative water quality standards, or to the designated use(s) of receiving waters (A.A.C. Title 18 Chapter 11).

Narrative water quality standards include prohibitions against discharges of pollutants in amounts or combinations that settle to form bottom deposits that inhibit or prohibit the habitation, growth or propagation of aquatic life; discharges of pollutants in amounts or combinations that change the color of the surface water from natural background levels of color; and discharges of oil, grease, and other pollutants that float as debris, foam or scum; or that cause a film or iridescent appearance on the surface of the water; or that cause a deposit on a shoreline, bank, or aquatic vegetation.

Part I.D.5. Discharges to Impaired Receiving Waters

This permit includes specific conditions to protect impaired surface waters. An *'impaired water'* is a surface water that has been assessed as not attaining a water quality standard for at least one designated use. ADEQ is scheduled to provide an updated list of waterbodies not meeting water quality standards to EPA for approval in each even-numbered year. This listing of impaired waters identifies each waterbody by name, stream reach or lake number, and watershed. The parameter(s) not meeting standards (i.e. causes of impairment) are also identified for each waterbody. Impaired waters are listed in Arizona's 303(d) and Other Impaired Waters List available at:

www.azdeq.gov/envIRON/water/assessment/assess.html

Tier 1 antidegradation protection applies to surface waters listed on the 303(d) list for the pollutant that resulted in the listing (AAC R18-11-107.01). For these waters, a regulated discharge shall not violate a water quality standard and shall not further degrade existing water quality for the pollutant that resulted in the listing.

Consistent with federal law, Arizona Administrative Code R18-11-107(B) specifically prohibits degradation of Tier I waters (where the existing water quality does not meet applicable water quality standards. If a permittee's discharge causes or contributes to nonattainment of standards, more effective and/or additional BMPs must be added. If after the implementation of additional and/or more effective BMPs the discharge continues to contribute to nonattainment, the permittee shall cease all discharges under this permit and apply for coverage under an individual permit.

TMDLs

A total maximum daily load (TMDL) is the total amount of a pollutant a waterbody can receive from all sources and still meet water quality standards. TMDLs are written for waterbodies on the Impaired Waters List. Waters with TMDLs remain on the Other Impaired Waters List until the water quality is no longer impaired. Any discharge under this permit must be consistent with any applicable TMDL. Further, if a TMDL specifically assigns a load allocation to a construction project or projects, the project must be authorized under an individual AZPDES permit.

Part I.D.6. Discharges to Unique Waters

This permit includes specific conditions to protect unique waters within the State of Arizona. A *'unique water'* is a surface water that has been identified by ADEQ as an outstanding water resource in accordance with A.A.C. R18-11-112. A list of unique waters can be found at:

http://www.azsos.gov/public_services/Title_18/18-11.htm.

(Note: ADEQ anticipates that the term 'unique water' will be replaced with 'outstanding Arizona water' (OAW) within the permit term.)

No degradation of an OAW is allowed under the Surface Water Quality Standards rules. Thus, operators seeking authorization for discharge to a direct tributary, or upstream, of an OAW must demonstrate to ADEQ that the discharge will not degrade existing water quality in the downstream OAW. This demonstration is through submittal of the SWPPP documents, including the monitoring provisions specified in the permit.

Submittal of SWPPPs for Unique or Impaired Waters

ADEQ has developed a GIS system which designates a ¼ mile zone around both unique and impaired reaches. The authorization of projects that are in this area will be delayed 32 business days to provide ADEQ the opportunity to review the SWPPP for these projects. For these projects, the permit requires submittal of **one copy of the entire SWPPP** with the NOI. Notwithstanding the GIS system, it is also the responsibility of the applicant to assess whether or not any portion of the construction site is within ¼ mile of a unique water (or OAW), and if so to submit the site specific SWPPP to the Department along with the NOI. Failure to identify sites within ¼ mile of a unique or impaired water and submit the SWPPP with the NOI is a violation of the permit.

ADEQ expects that SWPPPs submitted to ADEQ for projects near unique or impaired waters will implement quality BMPs that minimize all off-site discharges. Those factors could include such things as total retention of discharges; increased inspection of BMPs; elimination of non-stormwater discharges; and phased contingency BMPs in the event the planned BMPs are not effective. Depending on the pollutants of concern, specific project requirements may vary.

ADEQ will notify operators within 32 business days of receipt of the NOI and SWPPP a). that they are approved for coverage under the permit and may proceed, b). the SWPPP (and / or the NOI) is incomplete or otherwise determined to be inadequate and must be revised, or c). there are eligibility issues. If notification is not received within 32 business days, the operator(s) is deemed approved for permit coverage. If the applicant is notified by ADEQ during this process that the SWPPP is deficient or inadequate, the applicant will need to revise the SWPPP so that it adequately addresses the deficiencies and concerns before coverage is granted (Permit Part III.F).

The 32-day hold for project sites located within ¼ mile of unique or impaired waters allows time for review and additional consideration by the Department and the applicant to preserve and protect these waters while utilizing the convenience and efficiencies inherent in the general permit process.

Existing facilities covered by the 2003 permit and which transition to the new AZPDES permit are exempt from the additional review time since they have already met eligibility requirements.

Part I.D.7. Exempt Discharges

Activities/sites that are exempt from permit coverage include construction sites that disturb less than one acre, and routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of a facility. Discharges from sites that have an erosivity waiver are also exempt.

Additionally, on June 12, 2006, U.S. EPA published a rule that exempts construction activities at oil and gas sites from the requirement to obtain a NPDES permit for stormwater discharges except in very limited instances. These amendments are consistent with the Energy Policy Act of 2005 signed by the President of the United States on August 8, 2005. This action also encourages voluntary application of best management

practices (BMPs) for construction activities associated with oil and gas field activities and operations to minimize erosion and control sediment to protect surface water quality. The final rule became effective June 12, 2006.

All persons operating under an exemption are expected to apply BMPs and minimize pollution discharge from their sites. As the permit indicates, any activity that causes or contributes to a violation of water quality standards may lose exemption and be required to obtain coverage.

Part I.E. Erosivity Waivers for Small Construction Activities

Some small construction sites may be eligible for a waiver from permit coverage (Part I.E). These sites must disturb less than five acres and must have a rainfall erosivity factor less than five.

Waivers are not available for construction sites that:

1. Disturb five acres or more;
2. Disturb less than five acres if the site is part of a common plan of development or sale that disturbs more than five acres;
3. Are within ¼ mile of impaired or unique waters; or
4. Are designated for permit coverage by ADEQ.

To receive a waiver, the operator of a small construction activity must certify to a low predicted rainfall erosivity factor of less than 5 during the period of construction activity. The rainfall erosivity factor is based on Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning with the Revised Universal Soil Loss Equation (RUSLE), pages 21-64, dated January 1997. To determine the rainfall erosivity factor (R) for the waiver, the operator must use the ADEQ's Smart NOI electronic system which calculates the values based on operator input of locational data and dates for construction.

For projects qualifying for the waiver, coverage under the AZPDES CGP is not required. The operator must file a Permit Waiver Certification Form. Filing of a NOI and development of a SWPPP is not required, but the operator must operate the construction site in a manner that minimizes pollutants in discharges including implementing BMPs that are protective of water quality. Additionally, the waiver authorization will indicate an 'end date' after which the waiver is no longer applicable. This is a calculated end date based on the locational and climate data that effect the erosivity factor calculation. If the project continues after this end date, permit coverage is required.

PART II. AUTHORIZATION UNDER THIS GENERAL PERMIT

Part II.A. Prerequisites for Submitting a Notice of Intent (NOI)

A Notice of Intent (NOI) for a general permit is similar to a permit application, in that it is a request for AZPDES permit coverage and contains information about the proposed discharge. The NOI serves as the operator's notice to ADEQ that the operator intends the discharge to have coverage under the general permit. By signing and submitting the NOI, the operator is certifying that a Stormwater Pollution Prevention Plan (SWPPP) has been developed, that the discharge meets all of the conditions specified in the general permit, and that the operator intends to continue to meet those requirements. A Notice of Intent that contains fraudulent, misleading or erroneous information invalidates permit coverage. An incomplete NOI delays permit coverage until such time as the NOI has been completed.

Part II.B. Submitting an NOI

Who is required to file an NOI?

Each operator is responsible for applying for the permit. The operator is the person who has operational control over construction plans and specifications, and/or the person who has day-to-day supervision and control of activities occurring at a construction site. In some cases, the operator may be the owner or the developer; in other cases the operator may be the general contractor; in some cases both entities will be considered operators.

Since there is typically more than one operator on a construction project, if any of these persons has operational control of the construction project, EACH PERSON IS REQUIRED TO APPLY AS AN OPERATOR for permit coverage using a separate NOI. Only one person from each company or municipality should submit the NOI for the project. However, if a company manages the site under separate divisions, e.g., land development and vertical development, the company may submit more than one NOI per project.

On a given project site there may be a number of operators that may be starting and ending their phase of the project at any given time. The critical feature is that each person who meets the definition of 'operator' applies before his phase of the project begins. Operators may use a common SWPPP as long as it covers all activities. Each operator will receive his own authorization number relating to his NOI.

Only one NOI need be submitted to cover all of one operator's activities on the common plan of development or sale (e.g., the operator does not need to submit a separate NOI for each separate lot in a residential subdivision or for two separate buildings being constructed at a manufacturing facility, provided the SWPPP covers each area for which the operator has control). Separate NOIs may be submitted for separate phases of projects with a total planned disturbance greater than five acres, provided that each phase is not less than one acre.

NOI Form

The operator must complete the NOI form provided by ADEQ or on the Smart NOI system. All information on the form must be provided. Incomplete NOIs will be returned.

The NOI requires the operator to identify the location that stormwater may discharge or flow off of the construction site. The "discharge location" is generally at a low elevation point at the perimeter of the construction site, or at the point closest to a receiving water. A receiving water is a natural watercourse into which stormwater would flow in a storm event and includes dry washes, streams, tributaries, and other waters of the U.S. (such as designated canals). Man-made structures such as retention basins, storm sewer systems, or city storm drains are not receiving waters.

Latitude and longitude for the discharge location of the construction site must be provided on the form. Common tools to determine latitude and longitude include Global Positioning System (GPS) devices, topographic maps, or internet mapping sites. The SMART NOI on-line system also includes a mapping system for easily determining latitude and longitude. The latitude and longitude must be reported in degrees, minutes, and seconds format. The latitude must have at least six digits. The longitude must have at least seven digits. This information is critical for accurately locating the site, mapping it on state environmental maps, and for determining which provisions of this permit may apply.

For linear construction projects (projects which are typically longer than wide and have a basically uniform width) such as roadways, and utility line and pipeline corridors, the latitude and longitude of the discharge location(s) is to be provided as follows:

1. For a linear project where any portion of the construction site is within 1/4 mile of any impaired or unique receiving water, provide the coordinates closest to that water body.
2. For a linear project with a single discharge location, provide the coordinates for the discharge location.
3. For a linear project with multiple discharge locations, provide the coordinates at the mid-point of the project length.

Identify the closest receiving water(s) to the site. If stormwater runoff could discharge to or reach more than one receiving water, list ALL receiving waters. Some receiving waters may be unnamed washes or tributaries, and these must also be indicated on the NOI form as "unnamed." "None" is not an acceptable answer to this question.

Signing an NOI

The complete and accurate NOI must be signed by the appropriate signatory. State statutes and rules provide for significant penalties for submitting false information on the NOI. The NOI serves as an agreement by the signatory that there will be compliance with the permit conditions. Per state and federal requirements, operators cannot delegate the responsibility for signature on an NOI form to consultants, agents, or any other person.

The authorization to sign other permit-related documents (NOT, SWPPP, inspection reports, etc) may be delegated. The signed and dated written authorization delegation must be included in the SWPPP. A copy of the signatory delegation does not need to be sent to ADEQ unless it is specifically requested.

Submittal of an NOI

The NOI may be submitted to the Department in one of two ways:

1. Through the electronic, user-friendly Smart NOI system available at "Arizona at Your Service," www.az.gov/webapp/noi/main.do. (If you use the Smart NOI system you must print a copy of the NOI and send the signed NOI to the Phoenix ADEQ Office or you may "e-sign" your NOI), or
2. By certified mail, hand-delivery, regular mail, or facsimile.

(Note: Coverage under the CGP will no longer be issued before a signed copy of the information is received by ADEQ. Use of the e-signature option on the Smart NOI system may in many cases result in immediate permit authorization.)

The permit also requires that operators notify the municipality where the construction site is located, if discharges may reach their storm sewer systems, streets and conveyances. This permit requirement is not limited to regulated small, medium and large MS4s. The operator must send a copy of the site's authorization certificate (not a copy of the NOI) to the municipality.

Response

Each permittee operating under this permit will be assigned an Authorization Number when the Notice of Intent (NOI) is processed. The confirmation of coverage letter the operator will receive from ADEQ is not the permit - it merely acknowledges that the NOI has been processed by the Department and the operator is authorized to discharge subject to the terms and conditions of this general permit. Note that the assigned number is not the AZPDES Permit Number; rather, the assigned number is for tracking purposes only. The actual permit number is AZG2008-001.

Operators who submit an application via the Smart NOI System are encouraged to use the e-signature feature to obtain faster, and in some cases, immediate coverage. An NOI Authorization Certificate will no longer be issued via the Smart NOI System for copies submitted without electronic signature. Operators who submit a signed NOI by fax, mail or hand delivery for manual processing, will be sent a letter regarding authorization status (typically within 2-5 business days of ADEQ's receipt of the NOI). Applicants may also verify receipt of the NOI and check the status of the authorization by visiting ADEQ's NOI Construction Database at:

<http://azdeq.gov/databases/azpdessearch.html>.

Revising an NOI

Revisions to an NOI are only allowable in certain circumstances, such as updating mailing address, changing the name of the contact person, or revising the location of the SWPPP.

To revise a NOI, an operator can download a copy of the NOI form from:

<http://www.azdeq.gov/envIRON/water/permits/download/constnoi.pdf>

Indicate that the NOI is a revision to an NOI which was authorized under the new construction general permit. Provide the current authorization number (AZCON-XXXXX); the name of the project/site; and **only** the specific information being revised. The revised NOI must be signed by the original signatory.

ADEQ does not allow revisions to an NOI to change the latitude or longitude of a site, nor to change the acreage of the site if the land disturbance has already begun.

ADEQ does not allow revisions to change or transfer an NOI to another operator. If operational control of a site changes, an operator must submit an NOT terminating coverage only after the "new" operator has received a valid authorization number and has taken, or is set to take, over operational control. An operator must submit a NOT within 30 days of transfer of coverage to a new operator.

Prior to submitting the NOI, the new operator shall develop a new SWPPP, or may modify, certify, and implement the existing SWPPP if it continues to satisfy the requirements of the general permit.

If project extends beyond the estimated termination date on an NOI, it is not necessary to re-file or revise the NOI. Permit coverage will continue until the permit expires or until an NOT is filed.

Late NOIs

The operator is required to submit a complete and accurate NOI in a timely manner and in accordance with permit requirements. In no instance are discharges pre-dating the NOI covered by the permit. Late filing of the NOI does not preclude the Department from taking enforcement actions for discharges pre-dating the NOI. Additionally, late NOI filing for the purposes of obtaining a NOT does not meet permit requirements and coverage will not be granted.

Terminating coverage

The permit requires that the site reach "final stabilization" before permit coverage may be completely terminated. In Arizona's arid and semi-arid climate, the time necessary to achieve this "final stabilization" often requires permit coverage well beyond the conventional earthwork and facility construction phase to ensure vegetation or other site stabilization measures are in-place.

Part II.C. Submitting an NOT

Each operator must reference the corresponding authorization number (AZCON) on the NOT form. An operators authorization to discharge under this permit terminates at midnight on the day a complete and accurate NOT is received by ADEQ. Upon receipt of the NOT the Department will issue a letter to the operator confirming receipt and that coverage under the permit is terminated.

PART III. STORMWATER POLLUTION PREVENTION PLANS (SWPPPs) PREPARATION AND SUBMITTAL

For coverage under this permit, the SWPPP must be prepared before commencement of construction and then updated as appropriate.

Part III.A. General Information.

The SWPPP focuses on two major requirements: (1) Providing a site description that identifies sources of pollution to stormwater discharges associated with construction activity on site; and (2) identifying and implementing appropriate BMPs to reduce pollutants in stormwater discharges to ensure compliance with the terms and conditions of this permit. The objective of the SWPPP is to minimize the erosion of disturbed land during construction and post-construction activities and to minimize discharge of pollutants, such as from sediment, fuels, oil, grease, fertilizer, pesticides, concrete truck washout, etc.

All SWPPPs must be developed in accordance with sound engineering practices and must be developed specific to the site. As necessary, the operator shall comply with Arizona Board of Technical Registration in designing sediment and erosion controls and preparing the SWPPP. If required, the SWPPP shall be sealed by a registrant who holds a valid registration from the Arizona Board of Technical Registration at the time the SWPPP is sealed.

Once a definable area (e.g., discrete home lots, parking lot, etc.) of the site has undergone final stabilization, no further SWPPP requirements apply to that portion of the site as long as the SWPPP has been updated accordingly to identify that portion of the site as complete.

Part III.B. Types of Operators.

The term "operator" is defined as a person with operational control over construction plans and specifications or as a person with control over the day-to-day activities of the site. Operators may also only have control over a portion of a larger project and several operators are then responsible for separate portions of the entire construction project.

1. Operators with Operational Control over Construction Plans and Specifications. If an operator falls within this category, he or she must ensure that the SWPPP indicates the areas of the project where he or she has operational control over project specifications, including the ability to make modifications to plans and specifications that may occur. The operator must ensure that all other permittees implementing portions of the SWPPP impacted by any changes made to the plan are notified of such modifications in a timely manner and ensure that the SWPPP contains the appropriate information indicating who has operational control.
2. Operators with Control over Day-to-Day Activities. If an operator is responsible for the day-to-day operational control of the activities at a project site necessary to ensure compliance with the SWPPP, he or she must ensure the SWPPP meets the minimum requirements of Part III of the permit. The operator must also identify those responsible for implementation of control measures required in the SWPPP, ensure the SWPPP indicates areas of the project where operational control of day-to-day activities are maintained, and identify the parties responsible for implementation of control measures identified in the plan.
3. Operators with Control over a Portion of a Larger Project. If an operator is responsible for only a portion of a larger construction project he or she must maintain compliance with all applicable terms and conditions of this general permit for that portion of the project.

Exactly who is considered an operator is largely controlled by how the “owner” of the project chooses to structure their contracts with the “contractors” hired to design and/or build the project. The following are three general operator scenarios (variations on any of the three are possible, especially as the number of “owners” and contractors increases):

1. “Owner” as sole permittee. The property owner designs the structures for the site, develops and implements the SWPPP, and serves as general contractor (or has an on-site representative with full authority to direct day-to-day operations). The “Owner” can be the only party that needs a permit, in which case everyone else on the site may be considered subcontractors and not need permit coverage.
2. “Contractor” as sole permittee. The property owner hires a construction company to design the project, prepare the SWPPP, and supervise implementation of the plan and compliance with the permit (i.e., a “turnkey” project). Here, the contractor would be the only party needing a permit. It is under this scenario that an individual having a personal residence built for his own use (e.g., not those to be sold for profit or used as rental property) would not be considered an operator. ADEQ believes that the general contractor, being a professional in the building industry, should be the entity rather than the individual who is better equipped to meet the requirements of both applying for permit coverage and developing and properly implementing a SWPPP. However, individuals would meet the definition of “operator” and require permit coverage in instances where they perform general contracting duties for construction of their personal residences.
3. Owner and contractor as co-permittees. The owner retains control over any changes to site plans, SWPPPs, or stormwater conveyance or control designs; but the contractor is responsible for overseeing actual earth disturbing activities and daily implementation of SWPPP and other permit conditions. In this case, both parties may need coverage.

In addition, for purposes of this permit and determining who is an operator, “Owner” refers to the party that owns the structure being built. Ownership of the land where construction is occurring does not necessarily imply the property owner is an operator (e.g., a landowner whose property is being disturbed by construction of a gas pipeline). Likewise, if the building of a structure has been contracted, but possession of the title or lease to the land or structure is not to occur until after construction, the would-be owner may not be considered an operator (e.g., having a house built by a residential homebuilder).

Operators have the option of developing and implementing either a comprehensive SWPPP, that covers all operators at the construction site, or an individual SWPPP, covering only an individual operator’s portion of the site (provided reference is made to the other operators of the site). Operators are encouraged to develop a comprehensive SWPPP to enhance cost sharing and coordination of BMPs. For example, the prime developer could assume the inspection responsibilities for the entire site, while each homebuilder shares in

the installation and maintenance of sediment traps serving common areas. If operators choose to develop individual plans, there must be coordination between the permittees to ensure stormwater discharge controls are consistent between the sites. Regardless of development of an individual or comprehensive SWPPP, operators must ensure that individual activities do not negatively impact another operator's pollution controls.

PART III.C. Site and Activity Description

This Part of the permit specifies what information must be in a SWPPP. Operators should review this part closely when preparing a SWPPP to ensure that each provision has been adequately addressed. This includes a site description, site map, identification of receiving waters, BMPs that will be implemented at the site, and a summary of pollutant sources. The permit details these provisions, and is not significantly different from the 2003 CGP.

The permit does replace the current provision for a pre and post-construction run-off coefficient. Instead, the operator is required to determine the percentage of the site that is impervious (e.g., paved, roofed, etc.) before and after construction and include this information in the SWPPP. This is needed for a reviewer to determine any changes in runoff volume resulting from the project.

PART III.D. Permit Related Records

This Part is consistent with the 2003 CGP requirements. A copy of the CGP, the signed and certified NOI submitted to ADEQ, and a copy of the document from ADEQ indicating the permittee's authorization number must be included in the SWPPP. This condition in the permit is intended to stress the importance of these documents for operators to understanding permit responsibilities.

The SWPPP must also contain a copy of any other agreements or special conditions that potentially affect stormwater and apply to site construction activities due to interaction with other state, local or federal agencies. Where these exist, it is important an inspector be aware of and reviews these additional provisions.

PART III.E Maintaining an Updated SWPPP

This Part does not significantly differ from the 2003 CGP requirements. SWPPPs must be revised whenever a change in design, construction method, operation, maintenance procedure, etc., may cause a significant effect on the discharge of pollutants to surface waters or to MS4s.

The plan must also be amended if inspections or investigations by site staff, or by local, state, tribal, or federal officials determine that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site.

Finally, if an inspection reveals inadequacies, the site description and pollution prevention measures identified in the SWPPP must be revised. All necessary modifications to the SWPPP must be made within 15 business days following the inspection. If existing BMPs need to be modified or if additional BMPs are necessary, implementation must be completed consistent with Subpart IV.I.2 of the permit.

PART III.F. Deficiencies in the SWPPP

This Part does not significantly differ from the 2003 CGP requirement. If, at any time during the course of the construction project, the Department determines the SWPPP (either in whole or in part) is deficient, ADEQ will notify the operator of the deficiencies. ADEQ may become aware of deficiencies in the SWPPP through a variety of ways, including reviews of SWPPPs for project located within ¼ mile of a unique or impaired water, a site inspection, or a reported complaint. The operator must revise the SWPPP in response to the Department's notice of deficiency within 15 business days.

PART III.G. Posting, SWPPP Review and Making SWPPPs Available

This Part has been reformatted and expanded for clarity, but does not significantly differ from the 2003 CGP requirements, except the timeline for submission of a SWPPP upon request has been reduced to 7 days to provide timely public access.

Posting

A copy of the authorization certificate must be conspicuously posted near the main entrance of the site. For linear projects, the notice must be posted at a publicly accessible location near the active part of the construction project (e.g., where a pipeline project crosses a public road).

Make available

The overall objective of the SWPPP is to provide a written plan for implementing, assessing and improving controls to reduce and minimize pollutants from ultimately entering waters of the U.S. The plan is an integral part of the permit and must be adhered to throughout the entire duration of the construction activity, up to and including submitting the NOT. Because the SWPPP is critical to the managing discharges from the project site, it must be on-site whenever construction or support activities are actively underway. This will allow personnel the opportunity to reference the plan at anytime to respond to changing site conditions, storm events, and other situations that may arise. At the time of an on-site inspection by ADEQ or other authority having jurisdiction over the project, the operator must have the SWPPP immediately available.

While the permit does not require the SWPPP be on-site when no construction or support activities are actively underway, the plan must be available to ADEQ and other authority(s) having jurisdiction over the project during normal business hours (generally Monday through Friday, 8:00 a.m. to 5:00 p.m.). The plan must be kept at a location that is local either to the project site or the closest ADEQ office location (Phoenix, Tucson, or Flagstaff).

Being an integral part of the permit, the SWPPP is a public document and must be made available to any person who wishes to review it. Persons (other than ADEQ or other authority having jurisdiction over the project) who wish to review the SWPPP shall make such a request in writing to the Department. The Department will then request a copy of the SWPPP from the operator which must be provided to ADEQ within 7 calendar days of the request. If the person making the request to review the SWPPP wishes to make a copy, all copying expenses shall be the responsibility of that person. The copy provided by the operator to the Department will remain with ADEQ.

PART IV. BMP REQUIREMENTS FOR CONSTRUCTION ACTIVITIES

PART IV.A. General Requirements

This Part reformats and clarifies the intent of existing CGP conditions. The permit requires both erosion control BMPs and sediment control BMPs to be implemented. These BMPs work together to minimize sediment discharge from a construction site. Erosion control BMPs (commonly referred to as stabilization practices) refer to covering or maintaining an existing cover over exposed soil. They are designed to prevent erosion and are the first line of defense in preventing off-site sedimentation. Erosion control can either be temporary [i.e. for those circumstances where construction activities cease on a site for more than 14 days or final (permanent)]. Examples of erosion control BMPs include vegetative cover, seeding, mulching, rip-rap and erosion control blankets. Often times, simply minimizing the disturbed area is a cost effective and efficient erosion control measure.

Sediment control BMPs are designed to capture sediment that erosion control BMPs have failed to keep in place. These BMPs are typically found at the perimeter of a construction site and include silt fence, sediment basins and traps, inlet protection, and check dams. Except for those sediment control BMPs that are intended as permanent structures (i.e. a temporary sediment basin to become a permanent stormwater basin), the permit requires that the operator remove these BMPs after final stabilization is achieved. The erosion and sediment control BMPs are not only to be implemented, but they must be effective and maintained.

PART IV.B. Erosion Control/Stabilization Practices

This Part is newly formatted and details requirements for certain BMPs if they are applicable or selected for use. Specifically there are new provision for preservation of natural vegetation, specifying seed mixtures in the SWPPP, culvert stabilization and run-on diversion.

ADEQ has also received many questions about soil crusting ("water encrustation") and clarify here, as well as in a note in the permit, that ADEQ does not consider soil crusting to be an appropriate temporary stabilization BMP. Soil crusting, while it may be appropriate for dust control, is not a nationally recognized water erosion control BMP. In fact, from a soil structure stand-point, soil crusting is undesirable, as it inhibits water infiltration. This decrease in water infiltration leads to an increase in run-off which can contribute to rill erosion.

Schedule & Deadlines for Stabilization.

This Part is newly revised. In general, temporary stabilization is to be installed, or permanent stabilization is to be initiated within 14 days after land disturbance has ceased. However, stabilization activities for land disturbance within 50 feet of an impaired or unique water must be within 7 days.

In areas that receive less than 20 inches of rain annually, and revegetation is planned to be used for stabilization, it is ADEQ's intent that the permittee institute stabilization no later than "as soon as practicable." It is expected that the permittee explain in the SWPPP why it was not practicable to stabilize sooner if the permittee wishes to use this option. Also, "seasonally arid conditions" do not mean conditions existing throughout the year in an arid location. In Arizona, "seasonally arid conditions" would not include those conditions that normally exist in the state during the winter and summer rain seasons. Although large portions of the state may have less than 20 inches of average rainfall, there are still periods of the year where rain may reasonably be expected. Those periods would not be considered "seasonally arid." ADEQ is not defining seasonal dry months due to variability across the state.

ADEQ has also received inquiries about the use of track walking for stabilization. Track walking provides moderate erosion protection for bare soils while vegetative cover is being established. Typically, track walking or scarifying the slopes is used in conjunction with hydroseeding to provide favorable conditions for seed germination and to increase infiltration, as well as to reduce erosion. ADEQ considers track walking to be an effective temporary stabilization BMP, provided it used for limited periods of time. ADEQ does not consider it to be an appropriate BMP on steeper slopes or during the monsoon season, unless hydroseeding and hydromulching are used concurrently.

PART IV.C. Sediment Control

1. Perimeter Control.

Unless adequately sized sediment basins are in place to catch all upstream discharges from the site, perimeter controls are mandatory. This is a provision of the 2003 CGP, but has been rewritten for clarification. At a minimum, the operator shall design, install and maintain in effective working order perimeter control sediment measures on all down-slope and mid-slope boundaries of the construction area. Examples of these BMPs include vegetative buffer strips and silt fences; however, it is the responsibility of the operator to design, install and maintain BMPs that are appropriate to site conditions.

2. Soil Stockpiles.

Operators must install sediment control BMPs around stockpiles and effectively manage them. Stockpiles are not to be places in washes, surface waters, stormwater conveyances, or in streets that may lead to any of these.

3. Sediment Basins The permit language has not substantially changed from the 2003 CGP

For sites with more than 10 disturbed acres at a time, all of which are served by a common drainage location, a sediment basin providing a minimum of 3,600 cubic feet of storage per acre drained must be installed where attainable, and maintained until final stabilization of the site is completed. In lieu of the default 3,600 cubic feet/acre, the permittee can calculate the basin size based on the expected runoff volume from the local two-

year, 24-hour storm event and local runoff coefficient. In this case, the SWPPP should include the calculations to demonstrate the basin is adequately sized. Flows from off-site or on-site areas that are undisturbed or have undergone final stabilization may be diverted around both the sediment basin and the disturbed area. It is not required by the permit to include diverted flows when designing the sediment basin.

Attainable in this context of basin installation means that there is room at the site, and the soils and the terrain allow construction. Basins are to be installed where attainable unless such installation would prove a safety hazard. The operator is to document in the SWPPP why a required sediment basin is not being installed either due to non-attainability or safety concerns. For the drainage locations which serve more than 10 disturbed acres at a time and where the sediment basin design is not attainable, smaller sediment basins or traps should be used, with diversion structures installed on upland boundaries of disturbed areas to prevent run-on from impacting disturbed areas.

For drainage locations serving 10 or less acres, smaller sediment basins or sediment traps are to be used and, at a minimum, silt fences or equivalent sediment controls are required for all down slope and appropriate mid-slope boundaries of the construction area. Alternatively, the permittee may install a sediment basin providing storage for 3,600 cubic feet (or the alternative calculated volume) of storage per acre drained.

4. Velocity Dissipation Devices.

Increased flow velocities can result from construction activities, such as removing vegetation or increasing the impervious area at a site. Increased discharge velocities can greatly accelerate erosion near the outlet of structural measures. To mitigate these effects, velocity dissipation devices are to be placed at locations where discharges leave the construction site as necessary to minimize erosion from high flows. Dissipation devices are also to be placed along the length of any outfall channel on the construction site as necessary. Velocity dissipation devices help protect a water body's natural, pre-construction physical and biological uses and characteristics (e.g., hydrologic conditions such as the hydro period and hydrodynamics).

5. Inlet Protection

The previous permit addressed inlet protection, but the proposed permit has been revised to clarify the importance of inlet protection. Sediment control must be provided at all operational internal storm drain inlets at all times during construction. Active inlets must be protected and considered part of the site perimeter because they provide an avenue for sediment and other pollutants to leave the site.

6. Construction Site Entrance and Egress

The location(s) where construction vehicles and equipment enter and exit the project site inherently receive a lot of traffic. A common issue with vehicles and equipment exiting the project site onto public streets is the tracking of sediment and debris from the site onto these streets. The permit requires the operator to minimize tracking of sediment and debris onto the roadway to the extent possible using BMPs such as a stabilized drive constructed of rock (typically 3" to 6" aggregate) to remove dirt and mud from tires. Another option may be a vehicle wash-down area, which may also be used in concert with a stabilized drive. Any wash-down area should be designed and constructed to capture wash down waters, sediments, debris, and other pollutants.

All site traffic should use the stabilized entrance / egress location. Sediment and debris that is tracked onto roadways must be cleaned up as soon as possible (e.g., vacuum truck) to prevent it from getting into storm sewers, waters of the U.S., and from becoming a physical hazard to vehicular traffic.

PART IV.D. Non-Structural BMPs

These provisions have not changed significantly from the 2003 permit. The operator is required to design and implement non-structural BMPs to prevent litter, construction debris, chemicals, and other pollutants from coming into contact with stormwater that is discharged from the site. The non-structural BMPs may include secondary containment for chemical storage, providing closed-top dumpsters for trash and debris, and contaminated soil management. The number and types of non-structural BMPs is largely dependent on the type of project, but training and awareness of personnel is a key component of success.

PART IV.E. Non-Stormwater Discharge Management

These provisions have not changed significantly from the 2003 permit. The operator must identify appropriate pollution prevention measures for each of the eligible non-stormwater components of the discharge covered by this permit when combined with stormwater discharges associated with construction activity.

PART IV.F. Post-Construction Stormwater Management

Land development can significantly increase stormwater runoff volume and peak velocity if appropriate stormwater management measures are not implemented. In addition, post-development stormwater discharges will typically contain higher levels of pollutants, including total suspended solids (TSS), heavy metals, nutrients and high oxygen-demand components.

Stormwater discharges originating from a site after construction activities have ceased, the site has achieved final stabilization, and a Notice of Termination has been submitted are not covered under this permit. If there will be a discharge of stormwater associated with industrial activity, or some other regulated discharge from the completed project (e.g., wastewater from a newly-constructed chemical plant), coverage under another permit(s) must be obtained for those discharges.

PART IV.G. Other BMPs

In addition to the erosion and sediment control measures and BMPs specified in Parts IV.B through IV.F of the permit, the operator shall describe all other measures in the SWPPP that might be necessary to prevent the discharge of solid material to waters of the U.S., except as may otherwise be authorized by a Section 404 permit issued in authority of the Clean Water Act.

The SWPPP shall also describe measures to minimize the generation of dust as well as containing equipment and vehicle washing (including concrete truck washout) in compliance with the Aquifer Protection Program.

PART IV.H. Inspections

This Part of the permit has been revised to clarify the inspection schedule. Additionally, inspection and compliance experience supports that a higher inspection frequency is appropriate during the monsoon season. During this time, even in the absence of precipitation, the high winds can damage BMPs. The storm event that triggers additional inspection is also changed to .25 inches in a 24-hour period as this size event often produces significant run-off.

1. Routine Inspection Schedule

Permittees must inspect designated areas on the site regularly. For purposes of this part, the Department defines "regularly" to mean either (1) at least once every 14 calendar days or (2) at least once every 7 calendar days and within 24 hours after each storm event of 0.25 inches or greater in a 24 hour period. To meet the requirement to maintain all BMPs in good working order, ADEQ recommends that the operator develop an inspection schedule that goes beyond the minimum inspection frequency by customizing a schedule for the site and the conditions affecting it.

The Department also recommends that permittees perform a "walk through" inspection of the construction site before anticipated storm events (or series of events such as intermittent showers over a period of days) that could potentially yield an appreciable amount of runoff.

2. Reduced Inspection Frequency

Whatever schedule is selected, it must be indicated in the SWPPP and the operator is required to comply with the minimum requirements of that schedule and document the inspections. The Department encourages more frequent spot inspection of controls and BMPs to ensure effective working order. Particular attention should be paid to construction site entrance and egress location(s), nearby streets, and inlets.

Predicted rainfall is any weather pattern that is forecasted to have a 30% or greater chance of producing precipitation in the project area. The operator shall obtain likely precipitation forecast information from the

National Weather Service Forecast Office (e.g., by entering the zip code of the project's location at <http://www.srh.noaa.gov/forecast>).

3. Inspectors

This part of the permit has not changed significantly from the 2003 CGP. Inspections must be performed by qualified personnel; either the operator's own personnel or consultants hired to perform the inspections. The inspector and his/her qualifications must be identified in the SWPPP. This permit cycle does not require the inspector be certified, however, the identified inspector must be knowledgeable and possess the skills to assess conditions at the construction site that could impact stormwater quality and assess the effectiveness of sedimentation and erosion control measures chosen to control the quality of the site's stormwater discharges. While inspector certification is not required, the Department encourages such certifications to complement experience. Relevant certifications may include, but are not limited to, CPESC, CESSWI (Certified Erosion, Sediment and Storm Water Inspector), AGC 16 hour EEC certification, certifications offered by other states, etc.

4. Scope of Inspections

This part of the permit has not changed significantly from the 2003 CGP. To meet the permit requirement, each inspection must comprise, at a minimum, a review of:

- Disturbed areas;
- Areas used for storage of materials exposed to precipitation;
- Sediment and erosion control measures;
- Discharge areas, including downstream off site areas (as applicable);
- Perimeter controls and slopes;
- Comparison of BMPs in the SWPPP with the construction site conditions;
- Pollution prevention and good housekeeping practices; and
- Locations where vehicles enter or exit the site.

Where discharge points are accessible, they must be inspected to ascertain whether erosion control measures are effective in preventing impacts to waters of the U.S. This can be done by inspecting the waters for evidence of erosion or sediment introduction. If discharge points are inaccessible, the permit requires that nearby downstream locations be inspected, if practicable. Inspectors must determine whether erosion control measures are effective in preventing impacts to the receiving water and look for evidence of or the potential for pollutants entering the drainage system.

5. Inspection Report

This part of the permit has not changed significantly from the 2003 CGP. The permit requires a report documenting each inspection be prepared and retained. The draft permit includes a new sample Inspection Report in Appendix A that was prepared as an aid to operators, and which identifies the type of information that must be kept. The operator may use this report form or may prepare a different report form, as long as all components required in Part IV.H.4 of the permit are included. Within 24 hours of the inspection, a copy of the completed report must be placed with previous inspection reports (in chronological order) with the SWPPP. Each inspection report must be signed in accordance with the certification requirements of Part VIII.J.2 of the permit.

If an inspection reveals problems with BMPs, they must be corrected. If an inspection shows inconsistencies with the SWPPP, on-site changes must be made or the SWPPP must be revised as appropriate. All necessary modifications to the SWPPP must be made within 15 business days following the inspection.

PART IV.I. Maintenance

Erosion and sediment controls can become ineffective if they are damaged or not properly maintained. The SWPPP requires all erosion and sediment control measures to be maintained in effective operating condition. This part of the permit has been revised to be more specific concerning maintenance of silt fences, the timing of sediment basin maintenance, and removal of sediment that has been tracked off-site onto paved surfaces. Removal of sediment that discharges off-site to drainage systems or drainage features is also required.

PART V. MONITORING REQUIREMENT FOR DISCHARGES TO UNIQUE OR IMPAIRED WATERS

This permit requires operators within ¼ mile of a unique or impaired water to develop and implement a monitoring program. This program is to be a part of the SWPPP and submitted to ADEQ along with the SWPPP. This is not a new requirement and is consistent with the provisions of the 2003 CGP. However, because of the nature and frequency of questions ADEQ receives concerning what a monitoring program should look like, clarifying details have been added to this section. The permit provides that monitoring must be done at these sites, unless an acceptable demonstration is made to ADEQ that there is not potential for discharge to reach the waterbody of concern.

Discharges under any AZPDES permit will focus on all water quality standards, not just those that form the basis for an impairment. Depending on the site and the other allowable discharges, there is a potential for other pollutants to be on-site other than those listed, including metals, chlorine, oil, gasoline, pesticides, etc. Some of these pollutants may not be additions to the construction site, but may be in the on-site soils and prone to increased discharge during site disturbances (in particular metals and pesticides). The operator must consider all pollutants that may be on-site, there is no expectation, however, that BMPs would be developed for any pollutant that is not in the site soils, non-stormwater discharges, or brought to the site during any construction activity

The operator must determine whether runoff from the proposed activity is expected to contain pollutants which are already causing impairment of the adjacent waterbody. If so, BMPs must be developed to eliminate, or reduce the pollutant, and monitoring for the pollutant must be conducted

Monitoring is not to be limited by season and shall be performed during daylight hours whenever stormwater is discharged from the site or enters a water of the U.S. unless adverse conditions make sampling impracticable. When adverse conditions prevent the collection of samples, the operator shall document in the SWPPP monitoring records the adverse conditions that prevented the collection of samples. Adverse conditions are defined as:

- a. Those conditions that are recognized hazards that might cause injury or death and do not comply with the specific safety and health standards and regulations promulgated by the Occupational Safety and Health Administration (OSHA); or
- b. Those conditions that create inaccessibility such as local flooding, high winds, electrical storms.

A monitoring program must include both visual and analytical monitoring.

Visual Monitoring

Visual monitoring includes frequent inspections and review of BMP effectiveness in a rainfall event with contingencies in place to enhance BMPs or site controls if they are observed or suspected of not being effective. At a minimum, visual monitoring activities for projects near impaired or unique waters shall consist of weekly site inspections of the effectiveness of BMPs at reducing pollutants to the waterbody. This monitoring shall include date imprinted photographs of sediment, erosion and waste control BMPs and monitoring of any discharges for color, clarity, odor, sheen, solids, and foam.

Analytical Monitoring

Analytical monitoring includes a sampling plan describing chemical, biological, and physical parameters that will be monitored, monitoring locations, how samples will be collected and analyzed and the frequency. If a waterbody is impaired for pesticides, for example and the construction is at a site that has always been desert, it is not expected that pesticide monitoring would occur. Conversely if the site was historically agriculture, it may have some of the pesticides of concern in the soils that are being disturbed. In this instance, the operator should determine the presence or absence of those chemicals, and if present, customize BMPs if appropriate and monitor those discharges.

For projects discharging to a waterbody listed as impaired for sediment (including suspended sediment concentration and/or turbidity), the operator must perform analytical monitoring (water quality sampling). Operators discharging into waterbodies that are listed for turbidity or suspended sediment concentration on the most recently EPA approved 303(d) list or have an established TMDL for turbidity or suspended sediment

concentration must collect and analyze samples for turbidity in stormwater runoff upstream and downstream of the construction site and compare the results. The turbidity value is used to indicate if BMPs are effective; it is not used for comparison to a water quality standard. If the turbidity value increases 25% or more from the upstream sampling location to the downstream sampling location, then the operator must evaluate the BMPs and the adequacy of the SWPPP and take corrective actions.

Operators are to locate monitoring points where construction projects for projects within ¼ mile of an impaired or unique waters as follows:

- i. One monitoring point shall be upstream of all water quality impacts from the construction site;
- ii. One monitoring point shall be downstream of all water quality impacts from the construction site; and
- iii. At least one monitoring point shall be at the discharge point(s) of the construction site.

The operator must monitor construction sites for turbidity if the discharge may reach a unique water or an impaired water listed for sediment (including turbidity or suspended sediment concentration). The operator shall compare turbidity values from the two instream locations. If there is a 25% at the downstream monitoring location, turbidity of the stormwater discharge(s) from the construction site shall be measured to determine the site's contribution. The operator shall evaluate and replace, maintain, or install additional BMPs as necessary to minimize sediment discharge.

The operator shall monitor and/or sample for the additional water quality parameters for those impaired waters that are listed for parameters other than or in addition to turbidity and/or suspended sediment concentration.

Monitoring records shall be retained as part of the SWPPP.

PART VI. SPECIAL CONDITIONS

These conditions are consistent with the 2003 CGP and federal construction general permits. The permit requires the operator to prevent the discharge of hazardous substances or oil from a site in accordance with the SWPPP. Further, if a permitted discharge contains a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under 40 CFR 110, 40 CFR 117, or 40 CFR 302, during a 24-hour period, the National Response Center (NRC) must be notified (dial 800-424-8802 or 202-426-2675 in the Washington, DC area). Also, within 15 business days of knowledge of the release, the SWPPP must be modified to include the date and description of the release, the circumstances leading to the release, responses to be employed for such releases, and measures to prevent the reoccurrence of such releases. This approach is necessary because of statutory requirements that make a clear distinction between hazardous substances typically found in storm water discharges and spilled hazardous substances that are not (See 40 CFR §117.12(d)(2)(i)).

Discharge of a hazardous substance or oil caused by a spill (e.g., a spill of oil into a separate storm sewer) are not authorized by this permit. The construction site must have the capacity to control, contain, and remove such spills if they occur. Spills in excess of reportable quantities must be reported as required under 40 CFR 110. Also Section 311 of the CWA and certain provisions of Sections 301 and 402 of the CWA are also applicable.

PART VII. RETENTION OF RECORDS

These conditions are consistent with the 2003 CGP. The permit requires that all records and reports required by the CGP be retained, including SWPPPs and information used to complete the NOI, for at least three years from the termination of coverage or expiration of the permit. This period may be extended by request of the Department.

PART VIII. STANDARD PERMIT CONDITIONS

These conditions are consistent with the 2003 CGP and are conditions required to be in all NPDES permits per 40 CFR 122.41.

Duty To Comply

The operator must comply with all conditions of this permit. An operator not fulfilling his or her obligations, as agreed upon by signing the NOI, is considered in violation of the Clean Water Act and is grounds for injunctive relief, substantial monetary penalties, incarceration, changes or terminations to the permit, or denial of permit renewal.

Need to Halt or Reduce Activity Not a Defense

The operator may not use as a defense for an enforcement action the reasoning that compliance could only be achieved by halting or reducing the permitted activity.

Duty to Mitigate

The operator must take all reasonable steps to prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

Proper Operation and Maintenance

The operator must properly operate and maintain all equipment and treatment systems used for compliance with the terms of the permit. This includes sediment and erosion controls installed at the site used to achieve compliance with the terms of the permit and the SWPPP. The operator must provide appropriate laboratory controls and quality assurance procedures as necessary. Backup systems are required when needed to ensure compliance.

Permit Actions

The permit may be modified, revoked and reissued, or terminated for cause. Filing of a request for a permit modification, revocation, reissuance, termination, or a notification of planned changes or anticipated noncompliance does not halt any permit condition.

Property Rights

The operator does not convey any property rights or privileges through issuance of this permit or coverage of activity under this permit. Injury to private property or invasion of personal rights are also not authorized under this permit nor any infringement of Federal, State, or local laws or regulations.

Duty to Provide Information

The operator must transmit any information needed to determine compliance with the permit or to modify the permit.

Inspection and Entry

The operator must, upon presentation of valid credentials by the Department or its representative, allow entry into the premises where the regulated activity and/or records are present. ADEQ must have access to view and to be able to make copies of any required records, inspect facilities, practices, operations, and equipment, and sample or monitor at reasonable times.

Monitoring and Records

Samples must be representative of the monitored activity. Records must be retained for 3 years subject to extension by ADEQ. Monitoring records must identify the sampling dates and personnel, the sample location and time, the analytical techniques used, and corresponding results. Wastewater and sludge measurements must be conducted in accordance with 40 CFR Parts 136 or 503 or other specified procedures. Falsification of results is a violation.

Signatory Requirements

Applications, reports, NOIs, NOTs, or other information submitted to ADEQ must be signed and certified by a responsible officer, a general partner or proprietor of a partnership, or a principal executive officer or ranking elected official for a municipality, state, federal, or other public agency. Knowingly making false statement, representations, or certifications is subject to penalties. Other than for applications and NOIs, these reports may be signed by a duly authorized representative. A person is considered a duly authorized representative only if the authorization is made in writing by such person and submitted to ADEQ. A duly authorized

representative may be either a named individual or any individual occupying a named position. The duly authorized representative is not the same as an operator, but the legally bound representative of the operator.

Reporting Requirements

- Planned changes. Notice must be given to ADEQ as soon as possible of any planned physical alterations and/or additions to the site. This notice is required if the site changes to meet the criteria for a new source or the nature and concentration of pollutants are affected.
- Anticipated noncompliance. The operator must give advance notice of any conditions that may result in noncompliance.
- Notification must be made within 24 hours of any noncompliance which may endanger human health or the environment.

Re-opener Clause

This permit contains a re-opener clause allowing the permit to be re-opened and modified during the term of the permit consistent with the Federal regulations at 40 CFR §122.62, §122.63, §122.64, and §124.5. Generally, this would be triggered by a water quality concern, a change in AZPDES statutes, or to incorporate new procedures or requirements developed by the ADEQ regarding such things as endangered and threatened species and critical habitat protection (e.g., based on consultation with FWS or NMFS) or historic preservation requirements to provide for additional consideration of effects to properties either listed or eligible for listing in the National Register of Historic Places. Indication that a permittee is contributing to a water quality concern or generally not fulfilling his or her obligations under this permit, may result in a review of the permit and requirement to obtain an individual permit or alternative general permit, or have the limitations and/or requirements under this permit be modified.

Other Environmental laws

Nothing in this permit releases the operator from requirements of other environmental laws or requirements.

State or Tribal Law

No condition of this permit releases the operator from responsibilities under other state or tribal laws or requirements.

Severability

If any provision of the permit is determined to be legally invalid, all other portions of the permit remain in effect.

PART IX. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS

Arizona law provides for significant civil and the potential for criminal penalties for violation of this permit. The statutory provisions are identified in the permit.

Antidegradation review

Anti-degradation rules have been established under A.A.C. R18-11-107 to ensure that existing surface water quality is maintained and protected. Operators are required to implement and maintain stormwater and non-stormwater BMPs under this permit to minimize the discharge of pollutants and ensure that no degradation of receiving waters will occur from stormwater or non-stormwater discharges from the operator's site. ADEQ considers that implementing the requirements of this permit will satisfy the anti-degradation requirements.